

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 516

Introduced by Carlson, 38.

Read first time January 23, 2013

Committee: Revenue

A BILL

1 FOR AN ACT relating to water resources; to amend section 77-27,132,
2 Revised Statutes Cumulative Supplement, 2012; to adopt
3 the Nebraska Water Legacy Act; to change provisions
4 relating to sales and use tax; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 9 of this act shall be known and
2 may be cited as the Nebraska Water Legacy Act.

3 Sec. 2. The Legislature finds that:

4 (1) Nebraska's water resources are finite and must be
5 wisely managed to ensure their continued availability for beneficial
6 use;

7 (2) For water to be of maximum beneficial use, it must be
8 available in times of need and must be of a quality suitable for its
9 intended purpose;

10 (3) A better appraisal and clearer perspective for future
11 development are needed, goals must be identified, and a long-term
12 plan must be created in order to provide for the effective
13 conservation, sustainability, and management of Nebraska's water
14 resources;

15 (4) In order to establish statewide water management
16 goals that represent the state's policy of using our water supply
17 more effectively for beneficial purposes by increasing quality and
18 reducing non-beneficial consumptive use, criteria must be identified
19 by gathering detailed information on the current state of water
20 management needs, statutory requirements, compacts and agreements,
21 and local water supply and infrastructure needs;

22 (5) Water resources goals can be achieved by investing in
23 research and data gathering, further integrating the management of
24 Nebraska's water supplies, improving our aging and antiquated water
25 infrastructure, building new infrastructure, promoting coordination

1 and collaboration among all water users, and securing a stable source
2 of project funds;

3 (6) Current state funding for the protection and
4 management of water does not reflect the importance of water needs to
5 the state;

6 (7) To facilitate the identification of water resources
7 priorities, an analytical process to weigh the value of a project to
8 the state must be developed which uses a set of criteria to identify
9 and select specific water projects and activities within each basin
10 that would assist the state in meeting its water resources goals and
11 requires a collaborative effort of experts representing all water
12 interests to develop a fair and balanced system of criteria
13 identification; and

14 (8) The effectual integration and success of individual
15 projects and all project purposes should be assured and conflicting
16 plans should be reconciled.

17 Sec. 3. For purposes of the Nebraska Water Legacy Act:

18 (1) Commission means the Nebraska Water Legacy Commission
19 created pursuant to section 4 of this act; and

20 (2) Department means the Department of Water Resources.

21 Sec. 4. (1) The Nebraska Water Legacy Commission is
22 created. The purpose of the commission is to identify water resources
23 programs, projects, and activities that will achieve the goals of
24 water sustainability, increasing water use productivity, and
25 otherwise maximizing the beneficial use of Nebraska's water resources

1 for the benefit of its citizens. The commission may perform duties
2 and functions as are specifically conferred on it by law. The
3 commission shall have no jurisdiction over matters pertaining to
4 water rights and no approval authority or control over any local
5 projects.

6 (2) The commission shall consist of seven members
7 appointed by the Governor with the approval of a majority of the
8 Legislature. The members shall have knowledge of and experience with
9 and represent municipal water use, surface water irrigation, ground
10 water irrigation, agriculture, educational or research institutions,
11 instream flow uses, residential water use, and natural habitat and
12 conservation. The Governor shall provide for a geographic balance in
13 the appointments. Commission members shall have demonstrated
14 knowledge and experience necessary in order to identify statewide
15 management goals, undertake further study and analysis to identify a
16 priority listing of water management funding needs that would lead to
17 achieving identified water management goals, and administer the
18 Nebraska Water Legacy Fund.

19 (3) If the Legislature is not in session when members of
20 the commission are appointed by the Governor, they shall take office
21 and act as recess appointees until the next session of the
22 Legislature convenes.

23 Sec. 5. (1) The commission shall evaluate all current
24 water funding and develop recommendations for combining or
25 eliminating funding sources and for providing the commission with the

1 authority to administer such funds.

2 (2) The commission shall conduct a water management and
3 funding needs assessment to systematically identify water management
4 plans and programs, projects, and activities to be funded by money in
5 the Nebraska Water Legacy Fund to achieve the goals of water
6 sustainability, increase water use productivity, and otherwise
7 maximize the beneficial use of Nebraska's water resources for the
8 benefit of its citizens. The assessment shall include the funding
9 needs identified by the commission, according to the criteria
10 established in subsection (3) of this section. Based on the
11 assessment, the board shall determine funding priorities. The
12 commission shall maximize the use of available organizational,
13 agency, technical, and professional consultation whenever possible in
14 carrying out its responsibilities.

15 (3) Criteria used to identify priorities include, but are
16 not limited to, the following: (a) The nature and purpose of the
17 proposed water management program, project, and activity; (b) the
18 quality of the plan for development of the proposed program, project,
19 or activity, together with engineering, economic, and financial
20 feasibility data and information; (c) estimated costs of construction
21 or implementation of the proposed program, project, or activity; (d)
22 whether the entity proposing the program, project, or activity has
23 the necessary easements and rights-of-way and related lands and has
24 or may acquire all water rights necessary for the proposed program,
25 project, or activity; (e) whether the entity proposing the program,

1 project, or activity possesses all necessary authority to undertake
2 or participate in the proposed program, project, or activity; and (f)
3 whether the entity proposing the program, project, or activity has
4 demonstrated the probable environmental and ecological consequences
5 that may result from such proposed program, project, or activity.

6 (4) It is the intent of the Legislature that: (a) The
7 commission utilize the product of the state water planning and review
8 process pursuant to sections 2-1599 to 2-15,106 and assistance from
9 any private individual, organization, political subdivision, or
10 agency of the state or federal government as appropriate; (b) the
11 public have maximum input into the formulation of state water policy,
12 and (c) that one or more public hearings be conducted prior to the
13 completion of any recommendations to the Legislature with respect to
14 use of the fund.

15 Sec. 6. On or before December 31, 2014, the commission
16 shall submit a report electronically to the Legislature containing a
17 plan for the Nebraska Water Legacy Fund, including a detailed process
18 identifying criteria to be used for production of a priority listing
19 of water management programs, projects, and activities eligible for
20 allocations from the fund. The report shall include recommendations
21 for legislation necessary to carry out the funding plan.

22 Sec. 7. (1) The Nebraska Water Legacy Fund is created.
23 The fund shall consist of money credited to the fund pursuant to
24 section 77-27,132, other funds appropriated by the Legislature, and
25 money paid to the state as fees, deposits, payments, and repayments

1 relating to the fund, both principal and interest, and donated as
2 gifts, bequests, or other contributions to such fund from public or
3 private entities. Funds made available by any department or agency of
4 the United States may also be credited to this fund if so directed by
5 such department or agency. Transfers may not be made from the fund to
6 the General Fund. Any money in the fund available for investment
7 shall be invested by the state investment officer pursuant to the
8 Nebraska Capital Expansion Act and the Nebraska State Funds
9 Investment Act. Investment earnings from investment of money in the
10 fund shall be credited to the fund.

11 (2) The commission may create or direct the creation of
12 accounts within the fund as it determines to be appropriate and
13 useful in administering the fund.

14 Sec. 8. (1) The money credited to the Nebraska Water
15 Legacy Fund pursuant to section 77-27,132 each fiscal year shall be
16 used as follows:

17 (a) For science, technology, and research to gather and
18 manage data needed for modeling of the state's water resources and
19 water quality threats and problems;

20 (b) For rehabilitating or restoring quantity and quality
21 related to water infrastructure or new infrastructure and
22 infrastructure maintenance;

23 (c) For new projects in areas related to conjunctive
24 management, storage, quality protection, and integrated management;
25 and

1 (d) For compliance with interstate compacts or
2 agreements.

3 (2) The money credited to the Nebraska Water Legacy Fund
4 pursuant to section 77-27,132 each fiscal year shall be used to fund
5 water management programs, projects, and activities determined by the
6 commission to be of the highest priority. The commission shall
7 provide for an application process and the standards and criteria on
8 which the applicant's program, project, or activity will be judged.
9 When considering funding for new water management programs, projects,
10 and activities, the commission shall give greater consideration to
11 regional programs, projects, and activities or programs, projects,
12 and activities that have a multipurpose impact. The commission shall
13 also require that applications for funding for water management
14 programs, projects, and activities have a local match requirement.
15 The commission shall determine the priority in which funds are
16 allocated for eligible programs, projects, and activities. No funds
17 shall be allocated to applicants pursuant to this subsection before
18 the board has completed the assessment required pursuant to section 5
19 of this act.

20 Sec. 9. The department, on the recommendation of the
21 commission, may adopt and promulgate rules and regulations to carry
22 out the Nebraska Water Legacy Act.

23 Sec. 10. Section 77-27,132, Revised Statutes Cumulative
24 Supplement, 2012, is amended to read:

25 77-27,132 (1) There is hereby created a fund to be

1 designated the Revenue Distribution Fund which shall be set apart and
2 maintained by the Tax Commissioner. Revenue not required to be
3 credited to the General Fund or any other specified fund may be
4 credited to the Revenue Distribution Fund. Credits and refunds of
5 such revenue shall be paid from the Revenue Distribution Fund. The
6 balance of the amount credited, after credits and refunds, shall be
7 allocated as provided by the statutes creating such revenue.

8 (2) The Tax Commissioner shall pay to a depository bank
9 designated by the State Treasurer all amounts collected under the
10 Nebraska Revenue Act of 1967. The Tax Commissioner shall present to
11 the State Treasurer bank receipts showing amounts so deposited in the
12 bank, and of the amounts so deposited the State Treasurer shall:

13 (a) Credit to the Highway Trust Fund all of the proceeds
14 of the sales and use taxes derived from the sale or lease for periods
15 of more than thirty-one days of motor vehicles, trailers, and
16 semitrailers, except that the proceeds equal to any sales tax rate
17 provided for in section 77-2701.02 that is in excess of five percent
18 derived from the sale or lease for periods of more than thirty-one
19 days of motor vehicles, trailers, and semitrailers shall be credited
20 to the Highway Allocation Fund; and

21 (b) For transactions occurring on or after July 1, 2013,
22 and before July 1, 2033, of the proceeds of the sales and use taxes
23 derived from transactions other than those listed in subdivision (2)
24 (a) of this section from a sales tax rate of one-quarter of one
25 percent, credit monthly eighty-five percent to the State Highway

1 Capital Improvement Fund and fifteen percent to the Highway
2 Allocation Fund; and -

3 (c) For transactions occurring on or after July 1, 20XX,
4 and before July 1, 20XX, credit monthly the proceeds of the sales and
5 use taxes from a sales tax rate of one-quarter of one percent derived
6 from transactions other than those listed in subdivision (2)(a) of
7 this section to the Nebraska Water Legacy Fund.

8 The balance of all amounts collected under the Nebraska
9 Revenue Act of 1967 shall be credited to the General Fund.

10 Sec. 11. Original section 77-27,132, Revised Statutes
11 Cumulative Supplement, 2012, is repealed.